IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

WP(C).No. 33461 of 2007(H)

PETITIONER:
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1. SEN GEEVARGHESE KURIACKOSE,
S/O.REV.FR.GEEVARGHESE, AGED 26 YEARS,
THEKKANATHIL HOUSE, THRUKOTHAMANGALAM,
PUTHUPPALLY, KOTTAYAM DISTRICT.

2. SINI SARA GEORGE, D/O.V.C.GEORGE,
AGED 26 YEARS, VETTUCHIRAYIL HOUSE,
PUTHUVELY P.O., MONIPPALY, KOTTAYAM,
KOTTAYAM DISTRICT.

BY ADV. SRI.P.C.HARIDAS

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY ITS
CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE SUB REGISTRAR, THENGANA,
KOTTAYAM DISTRICT, (MARRIAGE OFFICER UNDER
THE SPECIAL MARRIAGE ACT).

BY ADV. SRI. I.V. PRAMOD, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC , J

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W.P.(C). NO. 33461 OF 2007

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Dated this the 14th day of November, 2007.

JUDGMENT

The prayer in this writ petition is to quash Ext.P7. By Ext.P7, the 2nd respondent returned Ext.P1, notice of intended marriage submitted by the petitioners requiring them to re-submit the same along with voters identity card or S.S.L.C. book to prove the identity. Ext.P7 is dated 19.10.2007. Till date the petitioners had not re-submitted Ext.P1 as directed in Ext. P7. But, the petitioners have now approached this Court praying for quashing Ext.P7 and to direct the 2nd respondent to soleminise and register the marriage of the petitioners in accordance with the provisions of the Special Marriage Act.

2. I cannot approve the stand taken by the 2nd respondent in Ext.P7 requiring production of voters identity card and S.S.L.C book as the proof for identity, for the reason that in terms of the rules, the petitioners are entitled to produce any other documents which can establish the identity of the applicant. This could be the voters identity card, S.S.L.C book or any other acceptable documents. Therefore the petitioners will be free to re-submit Ext.P1 application either by enclosing the documents mentioned in Ext.P7 or any other acceptable documents proving their identity.

3. Insofar as their prayer for directing the respondent to register the marriage on completion of 30 days of date of Ext.P1, that cannot be granted for the reason that this in fact amounts to waiver of the notice period. A Division Bench had already held in the decision reported in **Deepak Krishna v. District Registrar** (2007(3) KLT 570) that the notice period specified is mandatory and cannot be waived.

4. In view of the above, I dispose of the writ petition directing that it will be open to the petitioner to re-submit Ext.P1 notice of intended marriage along with documents mentioned in Ext.P7 order or any other acceptable documents proving their identity. If notice is re-submitted as above, the 2nd respondent shall process the same in accordance with law.

The writ petition is disposed of accordingly.

ANTONY DOMINIC, JUDGE.

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